

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 10/684,464
Atty Docket No. Q74306

REMARKS

Claims 1-15, 17-21, 23 and 25-29 are all the claims pending in the application. Claims 16, 22 and 24 have been canceled without prejudice or disclaimer. Claims 25-29 have been newly added.

Priority

The present application claims priority from FR 02 16569. A certified copy of the priority document was submitted to the Patent Office on October 15, 2003. Therefore, Applicant respectfully requests that the Examiner acknowledge Applicant's claim to priority and that the certified copy of the priority document has been received.

Claim Objections

The Examiner objects to the claims because there are three claims numbered "16". Applicant has canceled the claims numbered 16, rendering the rejection moot.

Claim Rejections 35 U.S.C. § 112

Claims 1 and 5 stand rejected under 35 U.S.C. § 112 as being indefinite. Applicant has amended the claims in a manner believed to overcome the rejection.

Claim Rejections 35 U.S.C. § 102

Claims 1, 3-9, 12-14, 16, 17, 19 and 21-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lovatt (U.S. Patent No. 2,012,885). Applicant respectfully traverses the rejection in view of the following arguments.

Claim 1 sets forth a pass-through hinge knuckle opening and a plug which may seal off the inner side of the frame hinge knuckle from the outside. The Examiner asserts that the Lovatt

socket 29 constitutes an opening in the alleged hinge knuckle 28. However, the alleged Lovatt opening (socket 29) is merely the generally enclosed socket space in the alleged hinge knuckle. The alleged Lovatt opening generally defines a space; not an opening in the hinge knuckle. Since the Lovatt socket is not an opening, it does not meet opening requirement of claim 1.

Additionally, the claimed invention includes a plug inserted in a recess located on the inner side of the hinge surface. The plug makes the inner side of the frame hinge knuckle appreciably sealed off from the outside. With reference to a non-limiting embodiment of the specification, the plug 52 prevents rain water or other foreign matter that enters from an outer chamber 19 to be evacuated from the outer side towards the inner side of the frame. The plug limits the rainwater penetrating into the sewer system located under the frame.

Lovatt lacks a plug which seals the inner side of a frame from the outside. Instead, Lovatt teaches that water and other foreign matter which enter a chamber 33 are evacuated through the hinge opening 50 towards the inner side of the frame hinge box, and flow to the sewer system located under the frame.

The Examiner asserts that the hook 48 of Lovatt may be considered a plug, but the hook cannot operate as the claimed plug. The Lovatt hook 48 is adapted to rest against an outer surface 49 of the frame when the cover is fully opened. The hook 48 limits the position of the gate in its open position. The hook 48 does not seal off the inner side of the frame hinge knuckle from the outside, and therefore cannot be considered the claimed plug.

Claims 3-9, 12-14, 17, 19, 21 and 23 depend from claim 1, and are therefore allowable at least because of their dependency. Additionally, claim 3 sets forth that the plug includes a means

for evacuating accumulated dirt. Lovatt is designed to keep foreign matter out (*see* page 2, column 2, lines 47-50). There is no teaching or suggestion to accumulate and evacuate dirt. Additionally, the alleged Lovatt plug (hook 48) is designed to contact an outer surface of the frame in an open position to take the strain of the door (*see* page 2, column 2, lines 39-46). There is no suggestion that the hook has any means for evacuating dirt or that any dirt would be accumulated on the plug. Accordingly, claim 3 and its dependents are further allowable at least because Lovatt lacks a means for evacuating dirt.

Claim 4 further sets forth that the evacuating means includes an elastically deformable element. The Examiner asserts that the alleged Lovatt plug has an elastically deformable element at element 48. However, there is no suggestion that this element in Lovatt is elastically deformable. Additionally, claim 4 sets forth a pass-through position and a blocking position. Contrary to the Examiner's assertion, there is no indication that the alleged Lovatt plug (hook 48) serves to block any dirt when the frame is in a closed position, at least because there is a clearance between the hook 48 and the nearest wall 28. Additionally, in an open position (i.e. the alleged pass-through position), the hook snugly fits against part of the frame at 49. Accordingly, claim 4 and its dependents are also allowable at least because Lovatt lacks an elastically deformable element.

Claim 8 and its dependents are further allowable because Lovatt fails to teach any predetermined threshold of dirt.

Claims 16, 22 and 24 have been canceled, rendering their rejection moot.

Claim Rejections 35 U.S.C. § 103

Claims 2, 10, 11, 15, 18 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lovatt. Claims 2, 10, 11, 15, 18 and 20 depend from claim 1. Even if the Examiner's proposed modification of Lovatt were proper, it still would not correct the deficiencies of Lovatt with respect to claim 1 as discussed above. Accordingly, claims 2, 10, 11, 15, 18 and 20 are allowable at least because of their dependency.

Additionally, the Examiner's assertion that it would have been obvious to modify the alleged plug of Lovatt to be of a rubber or elastomer material is improper. The Examiner asserts that since Lovatt teaches gaskets which are made of rubber, that one of ordinary skill in the art would also have been motivated to make the alleged plug (hook 48) out the same material. However, any teaching or suggestion to do so is entirely absent from Lovatt. The Lovatt hook 48 constitutes part of the cover hinge knuckle 43 which is formed from steel (*see* Lovatt page 2, first column, line 66 to page 2, second column, line 2), not rubber or elastomer. Nothing in Lovatt teaches or suggest using rubber for the alleged plug (hook 48). The mere usage of a material for one part of the Lovatt device does not suggest that it would be desirable to use the same material for another part, particularly, as here, where the two parts have substantially different functions.

The Examiner points to page 3, column 2, lines 17-22 of Lovatt as motivation to modify the Lovatt plug. These lines of the specification only state that using gaskets as specified will result in a noiseless waterproof and air-tight closure. The specified gaskets, however, have many features. There is no indication that the material alone will results in the noiseless feature. The

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Examiner certainly would not suggest that the hook 48 should have all of the features of the gasket. Additionally, the specification only states that using a gasket as specified will result in these advantages. There is no indication that any of the same features would be advantageous for the alleged plug (hook 48).

Therefore, claim 2 and its dependents are further allowable at least because there is no motivation to modify the alleged plug to be made of rubber is improper.

New Claims

New claims 25-29 have been added to more fully claim the invention. Claims 25 and 26 depend from claim 2 and are therefore allowable at least because of their dependency. Claim 27 is allowable over Lovatt at least because Lovatt fails to teach a plug as claimed and claims 28 and 29 are allowable at least because of their dependency on claim 27.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Hannon', with a horizontal line drawn underneath it.

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